

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

LYNDA SEATON and)	
WES SEATON)	
)	
Plaintiffs,)	No. 2:17-CV-04100-NKL
)	
vs.)	
)	
MODINE MANUFACTURING COMPANY,)	
UTC AEROSPACE SYSTEMS, INC., and)	
JOHN BLATCHFORD)	
)	
Defendants.)	

**DEFENDANT HAMILTON SUNDSTRAND CORPORATION AND/OR UTC
AEROSPACE SYSTEMS, INC.'S MOTION TO DISMISS
PLAINTIFFS' PETITION FOR DAMAGES**

Pursuant to Federal Rules of Civil Procedure 8 and 12(b)(6), and all other applicable rules, Defendant Hamilton Sundstrand Corporation (“Hamilton Sundstrand”), incorrectly named as UTC Aerospace Systems, Inc.,¹ and joined by the Defendant UTC Aerospace Systems, Inc., a non-legal entity, respectfully submit this Motion to Dismiss (“Motion”) Counts I, II, III, and IV of Plaintiffs’ Petition for Damages (“Petition”).

1. Oral argument is requested on this Motion.
2. Plaintiffs in their Petition assert four claims against UTC Aerospace Systems, Inc.

¹ “UTC Aerospace Systems, Inc.” was incorrectly named in the Petition and case caption. There is no legal entity named “UTC Aerospace Systems, Inc.” As reflected in Exhibit D attached to the Notice of Removal, UTC Aerospace Systems is a trade and marketing name under which certain United Technologies Corporation aerospace companies, such as Hamilton Sundstrand, operate. Hamilton Sundstrand, the actual successor-in-interest to Sundstrand Corporation, and/or Sundstrand Tubular Products, is a UTC Aerospace Systems company. Accordingly, Plaintiffs’ attempt to serve “UTC Aerospace Systems, Inc.” with the Petition and Summons on May 10, 2017, is deficient. Nevertheless, Hamilton Sundstrand, as successor-in-interest to Sundstrand Corporation, and/or Sundstrand Tubular Products, as the operators and/or owners of the plant in question from 1972 until 1990, will serve as the responding defendant for purposes of this Motion.

and/or Hamilton Sundstrand. Counts I, II, III, and IV each fail as a matter of law.

3. Hamilton Sundstrand and UTC Aerospace Systems, Inc. incorporate by reference the entirety of their Suggestions in Support of this Motion filed contemporaneously herewith.

WHEREFORE, for the reasons stated in this Motion and Suggestions in Support, Hamilton Sundstrand and/or UTC Aerospace Systems, Inc. request that the Court dismiss, with prejudice, Plaintiffs' claims in Counts I, II, III, and IV as asserted against UTC Aerospace Systems, Inc., a non-legal entity, and Hamilton Sundstrand, and for such further relief as the Court deems just.

Respectfully submitted,

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as "UTC Aerospace Systems, Inc.") and/or
UTC Aerospace Systems, Inc.

Certificate of Service

I hereby certify that on June 14, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and served a copy via electronic mail on the following counsel of record:

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